

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6153**

**BILL NUMBER:** SB 28

**NOTE PREPARED:** Nov 7, 2006

**BILL AMENDED:**

**SUBJECT:** Restitution.

**FIRST AUTHOR:** Sen. Waltz

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill specifies that the state may be considered a victim of a crime for purposes of receiving restitution for the costs incurred by the state in prosecuting the crime. The state may recover any expenses it incurred through the added fee revenue through pretrial diversion program fees, probation user fees and through restitution orders.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** The salaries of the prosecuting attorney and a deputy prosecuting attorney in each county are paid from the state General Fund. Depending on how each office is organized, the prosecuting attorney may be able to identify the number of hours that are assigned to each case prosecuted. If this is possible, then some portion of these hours may be able to be recovered from the criminal defendant, depending on the defendant's current and future earnings. [See also *Explanation of Local Expenditures.*]

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** While the prosecuting attorney is a state-paid court officer, most of the costs incurred in prosecuting a case are paid by the county in which the prosecuting attorney is elected. Depending on how the bill is interpreted, counties may be able to recover a portion of the costs of prosecuting certain cases. However, any recovered costs will depend on how identifiable these costs are and the ability of the criminal defendant to pay for these costs.

From a managerial cost perspective, costs can be fixed or variable. Fixed costs include the salaries paid to

the office staff and the costs for utilities and building maintenance. Variable costs are case sensitive and include overtime salaries and the use of expert witnesses.

Depending on whether a prosecuting attorney office is able to track the number of staff hours that are spent on each case, the costs for each case prosecuted may include the staff salary costs. Otherwise, the use of expert witnesses may be the most easily identifiable expense since they are generally paid on an hourly basis for the work they conduct on a case, as well as for travel and lodging.

The proportion of cases involving pauper attorneys can indicate the ability of criminal defendants to pay additional restitution orders. For CY 2004, pauper attorneys were appointed in 82% of the Class A, B, and C felony cases that were disposed and 72% of Class D felonies. In addition, courts appointed pauper attorneys in 26% of the misdemeanor cases that were disposed.

<b>Pauper Attorneys Appointed for Felony and Misdemeanor Cases Compared to Total Felony and Misdemeanor Cases Disposed in CY 2004</b>			
	<u>Class A, B, &amp; C Felonies</u>	<u>Class D Felonies</u>	<u>Misdemeanors</u>
Pauper Attorneys Appointed	14,441	31,480	51,637
Total Dispositions	17,590	43,799	202,430
Percent	82%	72%	26%

**Explanation of Local Revenues:**

**State Agencies Affected:**

**Local Agencies Affected:** Courts and Prosecuting Attorneys Offices.

**Information Sources:** 2004 Indiana Judicial Report.

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